

REMARKS

This Amendment is submitted simultaneously with filing of a Request for Continuing Examination.

With the present Amendment, applicant has amended claims 1, 4, 5, and 11 to more clearly define the present invention and to distinguish it from the prior art.

In the Final Office Action the claims were rejected as being anticipated by the patents to Hesselbart, Tarulli, and McKinney or obvious over several references.

Claim 1 specifically defines that the rod 16 of the inventive golf training apparatus is arranged at a distance to the rack 11, and the extension 15 is provided which is connected with the rod and the rack and extends between the rod and the rack so as to hold the rod at the distance to the rack, such that a golf club is swingable through underneath the rod.

Turning now to the patent to Hesselbart, in this reference the vertical rack 22 is connected with the horizontal rod 78 by a mounting block

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88. Since the horizontal rod 78 can not pierce through the vertical rack 22, the mounting block 88 is formed so that the axis of the horizontal rod 78 and the axis of the vertical rack 76 are offset from one another by a minimal distance to allow the horizontal rod 78 and the vertical rack 76 to be close to one another but not to intersect one another.

The mounting block 88 can not be considered as an extension which holds the rod and the rack at a distance from one another. As interpreted in the "Webster's Third New International Dictionary" an "extension" is a part that is extended from or attached to a main body or section as an addition, supplement, or enlargement, a section that forms an additional length, a prolongation, etc. Definitely, the mounting block 88 is not an addition, supplement or enlargement of the vertical rack, but instead it is placed on the vertical rack to connect it to the horizontal rod. The block 88 is not extended or attached, it is not an addition, supplement or enlargement, and it is not a section that forms an additional length or prolongation.

The inventor's background as a golf instructor allows him to appreciate the dangers which training aids, such as disclosed in the patent to Hesselbart, bring to the golfer through the proximity with which the golfer must stand to the apparatus while swinging the golf club. One can clearly

see from Figure 1 of the patent to Hesselbart how close the golfer is standing to the apparatus.

In contrast, in the applicant's invention the extension, which is the element 15, has been specifically designed to hold the rod 16 at a safe distance from the upright rack of the apparatus, for example by a distance can be 115 cm, which is the maximum length of the modern golf club. This distance positions the user a safe distance from the rack, or the upright stand. Definitely, the mounting block 88 has nothing to do with providing any distance between the rod and the rack, and it is not comparable with the applicant's invention, in which the special extension is located between the rod and the rack.

While reviewing the patent to Hesselbart, one also sees that the rack which is the element 22 is positioned to the side of the golfer, thus being very close to the intended swing path. Because of the structure of the elements 15 and 16 of the apparatus of the applicant's invention, it can be clearly seen that the rack and the base identified as element 12 of the applicant's invention are in front or opposite the user and therefore much farther away from the intended swing path of the golf club.

It is therefore believed that the new features of the present invention which are now defined in claim 1 clearly and patentably distinguish the present invention from the prior art, even without defining a specific length of the extension, and therefore claim 1 should be considered as allowable over the patent to Hesselbart.

Turning now to the patent to the patent to Tarulli, it is respectfully submitted that the cited patent to Tarulli describes a golf swing practice apparatus, in which the rod 57, 61 is not arranged parallel to the hitting direction, but perpendicular to the hitting direction. If the rod 57, 1 were aligned with member 51, the rod formed by members 51, 57, 61 would not be disposed at a distance from the upright rack. The golfer would not be able to swing through underneath the rod. Again, Tarulli provides no disclosure or suggestion regarding why the members 51, 61 should be aligned and why a rod formed in this way should be disposed at a distance from the rack.

It is believed that claim 1 should be considered as patentably distinguishing the present invention over the patent to Tarulli as well.

Claims 11 specifically define that in the golf training apparatus the upright rack is made of a rigid material, while the rod is inflatable such that touching the inflatable rod by a golfer is harmless and not accompanied by a risk of injuries, while the upright rack is rigid.

In the golf training apparatus as defined in claim 11, the upright rack is rigid to maintain the stability and rigidity of the apparatus, while the rod is inflatable, and therefore touching the inflatable rod by a golfer is harmless and not accompanied by a risk of injuries. Similar features are defined in claims 4 and 5, in which it is defined that the rod is inflatable and the extension is also inflatable correspondingly.

Turning now to the references and particularly to the patent to Elson, it is respectfully submitted that in the applicant's opinion the Examiner did not correctly interpret the invention disclosed in this reference. While the title of the invention is an "Inflatable Article Valve", this does not mean that the valve is inflatable. Instead the invention disclosed in the patent to Elson deals with a valve for inflating an inflatable article, for example a balloon. The Examiner indicated that the patent to Elson discloses an upright rack made of the rigid material 33, and an inflatable rod provided on it aligned horizontally and parallel to a desired hitting direction. The patent to Elson

discloses a tank 33 which is of course rigid, and then Figure 1 shows an inflatable balloon 10 which can be inflated by helium from the rigid tank 33 supplied through an inflation nozzle 36.

The patent to Elson clearly belongs to a non analogous art. A person of ordinary skill in the field of golf playing devices and golf training apparatuses would never look for any solutions to improve a golf training apparatus in the field of valves for inflating inflatable articles.

As was decided in re Clay, 23 USPQ 2d 105(a), 1060-61 (Fed. Cir. 1992):

"Two criteria have evolved for determining whether prior art is analogous (1) whether the art is from the same field of endeavor and (2) if the reference is not within the field of the inventor's endeavor whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved... a reference is reasonably pertinent if...it is one which, because of the matter which it deals, logically would have commended itself to the inventor's invention in considering its problem...if a reference disclosure has the same purpose as the claimed invention, the reference relates to the same problem... if it is directed to a different purpose, the inventor would accordingly have had less motivation to consider it.

As for the first criteria, definitely the valve disclosed in the patent to Elson is not from the same field of endeavor. As for the second criteria, in view of the matter with which the patent to Elson deals, logically

it would have not commended itself to the inventor's attention in considering his problem in golf training, and it does not have the same purpose as the claimed invention.

It is therefore respectfully submitted that the patent to Elson not only does not disclose any new features of the present invention, but also belongs to a non analogous art, and therefore claim 11, as well as claims 4 and 5 should be considered as patentably distinguishing over the patent to Elson.

Turning now to the patents to Mckinney and Shute, it can be seen that the references disclose an inflatable toy football goal post and an inflatable toy for assisting the user in obtaining a ride. All arguments presented herein above with respect to the patent to Elson are fully applicable with respect to these two references as well. Both criteria for determining whether the art is analogous or non analogous clearly show that these two references belong to a non-analogous art.

These references not only do not disclose the new features of the present invention as defined in claims 11, 4 and 5, but also a person of

ordinary skill in the art would never use these references for improving golf training apparatuses.

As for the patent to Shute, the housing 1 can not be considered as a vertical rack of a golf training apparatus, while the ball 5 and the air bulb 7 can not be considered as horizontal rods extending at a distance because of the extension, from the vertical rigid rack. In the patent to McKinney the whole toy is inflatable, and therefore there is no rigid vertical rack and an inflatable horizontal rod arranged at a distance to the rigid vertical rack.

It is therefore believed that claims 4, 5 and 11 define the features which clearly and patentably distinguish the present invention from these two references.

As for the Examiner's rejection of claim 1 over the patent to McKinney as mentioned herein below, this reference clearly belongs to a non-analogous art, and therefore this rejection should be considered also as not tenable.



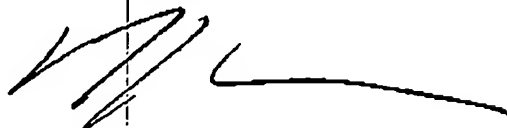
In view of the above presented remarks and amendments, it is believed that claims 1, 4, 5 and 11 should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend on claim 1, they share its presumably allowable features and therefore it is respectfully submitted that it should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line.

Michael J. Striker  
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